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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/789,853      | 02/27/2004  | Sridhar Jawaharlal   | 12406/94            | 8491             |

  

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| 26646   | 7590 | 09/14/2007 |
| KENYON & KENYON LLP<br>ONE BROADWAY<br>NEW YORK, NY 10004 |      |            |

  

|               |  |
|---------------|--|
| EXAMINER      |  |
| YOO, JASSON H |  |

  

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
| 3714     |              |

  

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|-------------------|---------------|
| NOTIFICATION DATE | DELIVERY MODE |
| 09/14/2007        | ELECTRONIC    |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@kenyon.com

## Office Action Summary

**Application No.**

10/789,853

**Applicant(s)**

JAWAHARLAL, SRIDHAR

**Examiner**

Jasson H. Yoo

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/29/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Oath/Declaration*

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because: It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

The correct statement should read the following:

"I acknowledge the duty to disclose information which is material to patentability of this application in accordance with Title 37, Code of Federal Regulations Section 1.56."

NOT the following:

"I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations Section 1.56(a)"

### *Claim Objections*

Claim 9 is objected to because the claim 9 repeats the same limitation as claim 8. More specifically claim 8 recites the limitation of a first account record for the first remote user terminal. Claim 9 recites the limitation of a first account record for a user.

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However, independent claim 1 discloses a first remote user terminal. Therefore the claims recite the same limitations.

Claim 36 is objected to because the claim 36 repeats the same limitation as claim 35. See objection for claim 9 above.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8, 9, 22, 35, 36, 54 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 8, 9, 22, 35, 36, 54 claim, "debiting the first amount from the first account record when the application server transmits a first lottery game, debiting the first amount from the first account record when the application server transmits a second lottery game". It is not clear if the first amount is debited to play both the first and second lottery game, or the same amount is debited twice for each of the lottery game. Furthermore, the claims include the limitation of crediting a second amount to the first account record when the first lottery game is played and is a winning lottery game, to credit the second amount to the first account record when the second lottery game is played and is a winning lottery game. It is not clear if the second amount is debited if the first and second lottery games are both winning lottery games, or if the second amount is credited for the first winning lottery game and the same amount is credited for

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the second winning lottery game. The claims also recite the limitation of, "the first and second amounts variable in accordance with the first and second lottery games". It is not clear how the first and second amounts are variable if the first amount is used to debit from the account, and the second amount is used to credit the account. Due to the vague limitations, the claims will be examined based on the Examiner's best understanding of the claims.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 12-37, 39-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akalley (GB 2385802).

Akalley discloses a remote access based gaming system and a method for remote access game playing, for enabling a user to play a lottery game using a cellular phone (abstract). The gaming system enables the user to enter the lottery game using text message in the form of an SMS message (abstract, page 2, line 21). More than one cellular telephone in the network (page 4, lines 20-21), it is implied that numerous cellular telephones are used with the gaming system. The gaming comprises a text message entry system 10 which acts as an application server and an aggregator to

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collect the to transfer the entry from the cellular phone to the lottery system 14 and to communicate with the lottery system 14. A database (28 in Fig. 2) is use to store player account and debit from the accounts the play the game (page 4, lines 25 – page 5, lines 13, page 8, lines 12-25). If the player's account is established with credits, a portion or a percentage of the account is used to player the lottery game (page 8, lines 12-25). The winning game players are contacted with an appropriate message (90 in Fig. 4, page 9 lines 11-13) and the players' accounts are credited with the winnings accordingly (page 8, 22-24). Akalley discloses the claimed invention but fails to specifically the the data center is configured to transfer fund, into and out of a financial entity associated with the player accounts, the SMS message is translated to Java, the specifics processes of translating the SMS messages to Java, and the application server includes a plurality of application servers. Nevertheless, such limitations are well known in the art and would have been obvious to incorporate the limitations into Akalley's gaming devices.

In a network environment a server may consists of one server, or many servers to form a single server. Multiple servers that form a single server are used in networks in order to share the services of the server among a plurality of servers. Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify Akalley's gaming device and have the application server include a plurality of application servers in order to share the servers of the server among a plurality of servers.

Furthermore Akalley's specifically discloses the text message (SMS message) is converted to suitable signal for communication with the lottery interface (page 5:29-6:21). Java is a format that is commonly used in electronic games. Furthermore, Binary and ASCII text formats are also well known formats in the art. It is well known in the art to change one computer format to another. Akalley specifically teaches SMS message format is used to communicate with a lottery gaming system regardless of what format the gaming designer decides to use and convert to. Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify Akalley's gaming invention, and incorporate the conversion of SMS to ASCII to Binary and to Java in order to provide translate the SMS messages into compatible format of the lottery system.

Claims 11 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akalley (GB 2385802) in view of Cousineu (US 2004/0162142).

Akalley significantly discloses the claimed invention as discussed above. Akalley discloses funds are transferred to and from the player's account during the player of the game. However, Akalley fails to specifically teach that a financial entity is associated with the players account. Nevertheless Cousineu discloses a method of playing a lottery game using SMS or Java on a cell phone wherein a financial entity is associated with the players account (32 in Fig. 1). The Financial entity allows players to user their financial accounts to directly pay for the lottery game. Winnings are also transferred direction to the player financial account. Associating a financial entity with the players

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account facilitates the funding and crediting process by allowing the lottery system to directly access the financial account instead of providing an intermediate account system. Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify Akalley's gaming system and associate a financial entity with the players account in order to facilitate the funding and crediting process.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

WO 02/054355 discloses a method of playing a lottery game using SMS on a cell phone.

US 2004/0162142 discloses a method of playing a lottery game using SMS or Java on a cell phone.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasson H. Yoo whose telephone number is (571)272-5563. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on (571)272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JHY

  
ROBERT E. PEZZUTO  
SUPERVISORY PRIMARY EXAMINER